



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/730,665

12/08/2003

Leila Parker-Malchak

11362.00

4833

26884 7590 07/17/2008
PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001

EXAMINER

HAIDER, FAWAAD

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

07/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/730,665	Applicant(s) PARKER-MALCHAK, LEILA	
	Examiner FAWAAD HAIDER	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruppert et al (5,640,002) in view of Garwood (2003/0185948).

Re Claims 6, 11, 15-19: Ruppert et al discloses a processor (see Figure 3); a memory in connection with said processor and containing program instructions operative to control said processor (see Figure 3), a scale in communication with said processor and operative to obtain a weight measurement of an item for sale placed on said scale (see col.11, lines 45-58, see Figure 32); a means for determining the identification of the item at the weight scale (see col.38, lines 7-23); a scan error indicator in communication with the processor (see Figures 1 and 3); and a first radio frequency identification (RFID) tag antenna in communication with the processor, and focused on a bagging area of the terminal (see antenna 304 in Figure 16, 25, antenna 442 in Figure 21); the program instructions operative to control said processor to compare the stored and measured weights for the identified item and to actuate the first RFID antenna to verify the identification of the item if there is a perceived error in the

weight of the item as measured by the scale (see col.38, lines 17-27, Figure 33); the program instructions further operative to control said processor to compare the item identification determined by the means for determining the identification of the item and by the first RFID antenna (see col.22, lines 30-37, Figures 19-20); and the scan error indicator only being actuated if the comparison of the identification of the item raises a discrepancy (see Figures 32, 33, col.45, lines 45-52).

However, Ruppert et al fails to disclose said memory further storing a weight learning database (WLDB) containing a list of predetermined weights for items for sale. Meanwhile, Garwood discloses containing a list of predetermined weights (see [1385]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ruppert's invention with Garwood's disclosure of predetermined weights in order to "determine price at the price of sale (see Garwood [0772])."

Re Claims 7, 13, 16: Ruppert discloses wherein the means for determining the identification of the item comprises a bar code scanner in communication with said processor (see Figures 1 and 3).

Re Claims 8, 14, 17: Ruppert discloses wherein the means for determining the identification of the item comprises a second RFID antenna, focused on the scale area of the terminal and in communication with said processor (see Figure 32).

Re Claims 9, 12: Ruppert discloses wherein said indicator comprises one of an audio device and a video device (see col. 20, line 61, col. 21, line 62, col.7, line 51, col.8, line 19, col.12, line 3, col.45, line 40, col.40, line 45, col.44, lines 10-27).

Re Claim 10: Ruppert discloses wherein the first RFID tag antenna is attenuated so as not to detect tags located at the scale (see Figure 32).

Response to Arguments

3. Applicant's arguments filed 4/25/2008 have been fully considered but they are not persuasive. First, the applicant argues that Ruppert fails to show or suggest "a scale in communication with said processor and operative to obtain a weight measurement of an item for sale placed on said scale." Ruppert discloses a scale in Figures 32 and 33. Then, Ruppert discloses "a scale which weighs the item and automatically multiplies the weight by the current price..." (see col.11, lines 44-58). Then, the applicant argues that Ruppert fails to show or suggest "a means for determining the identification of the item, at the weight scale." In col.38, lines 7-23, Ruppert discusses block 557 where the computer calculates the total weight of the scanned items by using the product serial numbers and/or product class data received from the PID. The applicant also argues that Ruppert fails to "show or suggest "a first radio frequency identification (RFID) tag antenna in communication with the processor, and focused on a bagging area of the terminal." Ruppert discloses an antenna clearly in Figures 16, 21, and 25.

The applicant argues also that Ruppert fails to show or suggest "the program instructions operative to control said processor to compare the stored and measured weights for the identified item and to actuate the first RFID antenna to verify the identification of the item if there is a perceived error of the item as measured by the scale." In col.38, lines 24-27, Ruppert discusses block 550 which "represents the process of making the determination in the host computer if the weight of the order

calculated from the serial number and product class data is close enough to the actual weight." Next, the applicant argues that Ruppert fails to show or suggest "the program instructions further operative to control said processor to compare the item identification determined by the means for determining the identification of the item and by the first RFID antenna." Ruppert discloses "the RF ID tag.... which identifies the type of goods that the tag is attached to and a serial number identifying the particular tag (see col.22, lines 30-38)." Finally, the applicant argues that Ruppert fails to suggest or show "the scan error indicator only being actuated if the comparison of the identification of the item raises a discrepancy." In 563 (in Figure 33 and col.45, lines 45-52), it says that if the weight does not match, the security clerk is notified by an indicator.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627

/Fawaad Haider/
Examiner
Art Unit 3627

FIH

Application/Control Number: 10/730,665
Art Unit: 3627

Page 7